CHAPTER - IV

4 Transaction Audit Observations

Important audit findings noticed as a result of test check of transactions made by the State Government companies/Statutory corporations are included in this Chapter.

Government companies

Poompuhar Shipping Corporation Limited

4.1 Avoidable extra expenditure

The Company incurred an avoidable expenditure of ₹56.37 crore due to delay in purchase of spares, incorrect selection of shipping yard, non-rectification of the problems in cranes and turbo engines and delay in finalising the dry docking yard.

The Company organises ocean movement of coal required by the Thermal Power Stations of Tamil Nadu Electricity Board (Board) to the discharge ports at Chennai and Tuticorin. As the port at Tuticorin does not have shore crane facility, the unloading of coal is required to be carried out only through the vessels having crane facility. The Company owns three vessels *viz.*, Tamil Anna, Tamil Periyar and Tamil Kamaraj with crane facilities. The cost of transportation of coal to Tuticorin by the Company's own vessels was always cheaper (with an estimated savings of ₹80 to ₹319 per MT) during the three years up to 2009-10 as compared to transportation through hired vessels. Hence, it was imperative on the part of the Company to utilise optimally its own vessels in Tuticorin sector to reap the cost advantage. We observed (April 2010) that the discharged quantity of coal during the three years up to 2009-10 was continuously declining as detailed below:

(Quantity in lakh MT)

Sl. No.	Year	Total quantity discharged	Quantity discharged by own vessels				Quantity discharged by hired vessels	Percentage to total quantity (own vessels)	Percentage to total quantity (hired vessels)
			Anna	Periyar	Kamaraj	Total			
1.	2007-08	52.21	NIL	6.18	8.67	14.85	37.36	28.44	71.56
2.	2008-09	42.41	NIL	5.37	6.14	11.51	30.90	27.14	72.86
3.	2009-10	45.05	0.92	NIL	3.35	4.27	40.78	9.48	90.52

The factors attributed for the declining performance of the Company's own vessels in Tuticorin sector are discussed below:

MV Tamil Anna

- The replacement for worn out slew bearings[Ω] of Crane No.2 and 6 of this vessel became necessary in February 2005 and the spares were available only with the 'original equipment manufacturer' (OEM), who insisted on a lead time of six months for supply of spares. Even though these spares were required before the envisaged dry docking between September and November 2005, the Company decided (June 2005) to procure necessary spares for repair of these cranes and delayed placement of purchase orders up to September 2005. The dry docking in November 2005 was completed without carrying out repairs to the cranes.
- The Company did not take delivery of the spares till February/March 2008 which were ready for despatch in April 2006 due to non-identification of the shipyard for carrying out the repairs till February 2007. Further, even after identification of Hindustan Shipyard Limited, Vishakapatnam (HSL) for carrying out the repairs, non-delivery of the vessel up to February 2008 also contributed to the delay. However, the Company had no recorded reasons for the delay.
- The vessel, when faced (February 2008) with an emergency situation due to problem in turbo generator of the engine, was immediately sent to HSL to carry out the necessary engine repair as well as the pending crane repair work. But HSL was not capable of carrying out major repairs and it took an abnormally longer time of five months (February to July 2008) against the stipulated time of 60 days and carried out partial repairing which resulted in problems of synchronising the cranes with the lower speed level of the main engine.
- Even during post inspection (August 2008) of the repair works, the OEM listed out 122 items of essential spares for carrying out various repairs on cranes and engine works during the dry docking between October and December 2008. However, the requisite repairs could not be completed within the dry docking period for want of necessary spares.

In view of the above reasons, the vessel which had the crane facility could not be operated in Tuticorin sector during the period March 2007 till date (December 2010) and was utilised in other sector. Consequently, the Company discharged coal through hiring of vessels which resulted in an avoidable extra expenditure of ₹50.29 crore[♥] during the period 2007-08 to 2009-10 considering the fact that this own vessel had discharged an average of 10.49 lakh MT every year during the period 2004-07.

Ω Slew bearing enables the crane to rotate on all directions.

♥ Being the differential hire charges in respect of the vessels with crane facilities and the vessels without crane facilities for the dischargeable quantity of 31.47 lakh MT during the three years upto 2009-10, excluding the scheduled time of 110 days allowed for major repair and dry docking during 2007-08 and 2008-09.

MV Tamil Periyar

- The Company invited (June 2007) global tenders for dry docking of the above vessel during the period September 2007 and evaluated (September 2007) the offer of Cosco Shipyard Group Company Limited (Cosco), China for a price of ₹21.16 crore as the lowest tenderer. The Cosco wanted to finalise the tender by 26 September 2007 as it had subsequent commitment with other shipping Company. The Company could not finalise the tender till October 2007 because it held several discussions with Cosco for alteration in the quoted terms of penalty for delay in dry docking and release of part payments, *etc*. Though the tender was valid up to 3 November 2007, Cosco withdrew (October 2007) their offer citing the Company's slow response and non-availability of their shipping yard.
- The Company negotiated with second lowest tenderer and issued a work order (25 December 2007) for a price of ₹21.58 crore and thereafter the vessel reached the shipyard on 3 January 2008. Thus, by not finalising the tender of the lowest offer, the Company incurred an avoidable extra expenditure of ₹42 lakh. The dry docking was completed on 10 March 2008 taking 68 days against the quoted period of 42 days. The delay was mainly due to delay in receipt of spares (16 February 2008), delay in arranging the letter of credit (LC) and also delay in finalising the final bill of dry docking.

This avoidable delay of 26 days resulted in an avoidable expenditure of ₹5.66 crore, being the hire charges paid to a private vessel during the said period.

Thus, the Company incurred an overall avoidable extra expenditure of ₹56.37 crore due to delay in decision making, delays in arranging procurement of spares and non-execution of repairs.

The Company stated (July 2010) that the required spares for the cranes of Tamil Anna were not readily available due to obsolete model of the cranes. It also added that the delay in carrying out repairs was due to follow-up of stringent tender procedures and non-availability of infrastructure facilities with the Indian ship yards. In respect of Tamil Periyar, the Company stated that the cancellation of the L-1 firm was at their instance. The replies of the Company were not correct as the Company noticed the problems of Tamil Anna in February 2005 itself but delayed the placement of purchase orders up to August 2005. Further, the Company unnecessarily delayed delivery of its vessel till February 2008 after identification of the shipyard and even did not procure engine spares before the second dry docking. Further, in respect of Tamil Periyar, the lowest firm backed out from executing the dry docking on account of the Company's slow response to the modified terms of offer.

The matter was reported to the Government in May 2010; its reply was awaited (November 2010).

4.2 Lapses in contract management of chartered vessels

While inviting/evaluating tenders for spot chartering of the vessels, the Company deviated from the tender rules, terms and conditions, allowed unwarranted extensions at higher rates of charter hire charges and did not levy liquidated damages for the delays in delivery of the vessels. These factors contributed to an avoidable extra expenditure of ₹26.76 crore.

The Company is engaged in ocean movement of coal on behalf of Tamil Nadu Electricity Board and has been chartering private vessels every year on time[♦]/spot[∝] chartering. We assessed (between December 2009 and February 2010) the effectiveness of the tender system of spot chartering vessels and their efficiency and economy of operations for three years up to 2009-10 and observed as under:

Non-compliance with the tender procedures

(i) As per the Tamil Nadu Transparency in Tender Rules, 2000 (Tender Rules), the tender inviting authority should allow a minimum of 30 days for the tenderers to submit their quotations in respect of tender value exceeding ₹ two crore. Any reduction in the stipulated time has to be authorised by the competent authority with reasons recorded. Between March 2007 and November 2009, the Company invited tenders for 18 spot chartering exceeding ₹ two crore each but allowed only 6 to 23 days without any valid reasons and authorisation by the competent authority. Thereby, it lost the opportunity to get competitive offers and received repetitive offers mainly from four ship owners, who were in charter agreement with the Company continuously for more than two years.

The Company replied (July 2010) that the Government (June 1991) had exempted it from following tender procedure. The reply was not correct as the said deviation was allowed as a short term measure only in exceptional circumstances that too with proper justification. Further, the Tender Rules 2000, which emanates from Tender Act of 2000, had also superseded Government's earlier orders issued in 1991.

(ii) The Tender Rules also prescribe that the governance of tender finalisation should be by a Committee, which include the State Port Officer (SPO), Tamil Nadu Maritime Board as an independent member of the Company's tender Committee. We observed that during the above period in all the 18 cases, the SPO did not participate in any of the tender committee meetings resulting in non-availability of independent opinion from an expert as envisaged. The Company, however, did not initiate any action for nominating an alternate independent officer in his place.

The Company replied (July 2010) that its tender committee would be re-constituted.

♦ In time charter, the Company hires private vessels for a period of one year and above.

∝ In spot charter, the hiring of private vessels is upto a maximum of six months.

Deficiencies in evaluation of tenders

(i) We noticed that two vessels *viz.*, M.V. Goodlight and M.V. Goodseason were disqualified during evaluation in January 2008 and January 2009, on account of overage of 29 years and 24 years respectively. Further, M.V.Goodseason was also found to be not suitable for loading at Haldia Port. These vessels were, however, chartered by the Company during the subsequent periods[€] by relaxing the norms for age at 20 years of the vessel and usage of vessel in other ports except in Haldia. This indicated absence of standard procedure for technical evaluation of the vessels' capability.

The Company replied (July 2010) that the said vessels were qualified in the next tender considering their suitability for Paradip to Ennore sector. However, the facts remained that these vessels became suitable only after relaxation of tender conditions. This was advantageous to the tenderers rather than to the Company and was not a sound tender practice.

(ii) The terms and conditions of the tender required that vessels with crane facilities should not be more than 25 years old unless they had been in the Company's charter previously for a minimum of three continuous months. Despite this, the Company selected (October 2008) MV Chennai Perumai, a crane fitted vessel, which was more than 25 years old and also had not been in the Company's charter from May 2002 onwards. While in operation after October 2008, the Company found that the vessel was not capable of operation with crane facilities as was originally envisaged due to repair in cranes of the vessel. Consequently, the vessel performed its operation without crane facilities resulting in an extra expenditure of ₹5.15 crore[♦].

The Company replied (July 2010) that MV Chennai Perumai was diverted to Ennore to avoid bunching of vessels at Tuticorin. The reply was not correct because after the failure of crane of MV Chennai Perumai, the Company forcibly utilised it in Ennore sector, where there was no requirement for vessels with crane facility. This was not a financially prudent decision and resulted in extra expenditure of ₹5.15 crore.

Deficiencies in contract management

The charter party agreement provided for levy of liquidated damages (LD) for belated delivery of vessels within the specified lay days[♣] or the mutually agreed dates. We observed that the provision for delivery of vessel at a mutually agreed date was defective as the Company intended to take delivery of the vessels only within the specified lay days. On seven occasions, the ship owners failed to deliver the vessels within the lay days with delays ranging from 1 to 19 days. However, the Company did not levy LD amounting to ₹12.38 crore for such delays for want of enabling provisions in the charter party agreements.

€ M.V.Goodlight – December 2008 to July 2009; M.V.Goodseason – December 2009.

♦ The differential cost of operation with crane and without crane facility at the rate of Rs.151 per MT for handling 3.41 lakh MT.

♣ The lay days are normally for a period of 10 to 15 days as indicated in the tender during which the Company proposes to take over the chartered vessel as a replacement for the existing vessel.

Despite the downward trend in the charter hire charges in 2008-09 in the shipping industry, the Company did not exercise its contractual right to reduce the contract period and invite fresh tenders to reap the benefits of reduction on three occasions as discussed below:

(i) The Company floated (7 November 2008) a tender for spot chartering for three months between 20 December 2008 and 5 January 2009 and hired MV Goodlight and MV Gem of Paradip at ₹5.10 lakh per day and ₹5.50 lakh per day respectively during December 2008. The Company also engaged MV APJ Jad (November 2008) on spot charter basis of ₹9.10 lakh per day. As this vessel was delivered to the Company only on 20 December 2008 after a delay of 20 days, the Company should have either cancelled the spot charter of APJ Jad quoting their delay or prevailed upon the vessel owner to accept the latest finalised rate. Failure to exercise either of the options resulted in an avoidable extra expenditure of ₹5.95 crore.

(ii) The Company spot chartered (July 2008) two vessels, MV Good Pacific and MV Good Princess at a hire charge of ₹21.75 lakh per day. These vessels were added to the Company's fleet between 10 and 13 August 2008. They were redelivered on 15 and 16 November 2008 after exercising ten days extension on expiry of charter period. In the subsequent tender (October 2008), the owner of the above vessels quoted a lower rate of ₹6.85 lakh per day. Despite availability of these vessels at lower rates, the Company extended the services for ten days in November 2008, which was not a financially prudent decision. This resulted in an avoidable extra expenditure of ₹2.63 crore.

(iii) The Company allowed extension of service for two hired vessels *viz*., M.V.Gem of Paradip and M.V.Good Princess for one month in November 2008 and 10 days in February 2009, respectively. But the company obtained similar other vessels with lower hire rates in the subsequent tenders, which were finalised prior to the date of award of extension. Thus, extension allowed to these vessels was unwarranted and resulted in avoidable extra expenditure of ₹64.98 lakh.

The Company replied (July 2010) that the extensions were allowed based on the directions of TNEB due to their critical stock position. The fact remained that the same vessels or alternate vessels were available for discharge operations in next tender without any break period. Had the Company taken a commercially prudent decision not to allow extension when a lower subsequent quote was available, the same would have financially benefited the Company.

Non-availing of speed claim

The Company introduced (March 2008) a clause in the charter party in respect of long term charter for recovering speed loss based on the speed reports obtained from Weather News London. Accordingly it recovered ₹4.06 crore for excess fuel consumption due to lesser speed of the vessels than the declared one by the Weather News London. However, the same clause was not introduced in respect of spot charter vessels and thereby the Company continued to accept the speed reports of the vessel owners without any independent verification.

The Company replied (July 2010) that it had included the said clause from July 2010.

We conclude that the Company deviated from the tender rules/terms and conditions of tender while inviting tender and its evaluations. The contract agreements were defective as these did not safeguard the financial interest of the Company during delayed delivery of vessels besides the Company did not protect its financial interest while extending the charter period.

We also recommend that the Company may allow the time limit as prescribed in the tender rules for submission of tenders to get competitive offers and also include and enforce penal clauses in agreements to discourage non-supply of vessels within the stipulated lay days.

The matter was reported to the Government in May 2010; its reply was awaited (November 2010).

Arasu Cable TV Corporation Limited

4.3 Dismal performance

The Company created unfruitful infrastructure worth ₹28.28 crore and incurred cash loss of ₹8.11 crore during its three years of commercial operations up to October 2010.

Formation of the Company

The Government, with an objective of providing high quality TV signals at reasonable cost to the public through the Local Cable Operators (LCO), formed (October 2007) the Company to function as a Multi System Operator (MSO). After obtaining (April 2008) the provisional permission from the Ministry of Information and Broadcasting, Government of India (GOI) to operate as a MSO, the Company started (July 2008) its functions with the Government's investment in the form of share capital (₹25 crore) and loan (₹36.35 crore). Our assessment about the effectiveness of the business operations of the Company is given below:

Defective planning

The project proposals approved (July 2008) by the Government indicated that the Company's estimated project cost of ₹91.59 crore would be paid back in four years and three months subject to achievement of anticipated connections.[♦] The operation of cable TV services within the State was a highly competitive business and dominated by the private MSOs like Sumangali Cable Vision, Hathway *etc*. As a new entrant to the business, the Company should have obtained firm commitment from the LCOs for assured patronage and agreements from the popular channels for telecasting their programmes by the Company. However, the Company commenced its commercial operations (July 2008) without any tie up arrangement with either of them leading to its dismal performance.

♦ 15.20 lakh cable connection in the first year of operation with 5 *per cent* cumulative annual growth.

Implementation of the project

The Company procured (March 2008) four digital head ends* at a cost of ₹28.08 crore, and established them in Coimbatore, Thanjavur, Tirunelveli and Vellore between July and December 2008. It obtained (July 2008) cable connectivity through dark fibre cable for a route length of 821 KMs from Rail Tel Corporation of India Limited at an annual lease charge of ₹2.05 crore,Σ against which the Company had incurred ₹2.16 crore till January 2010. It also obtained (July 2008) distribution rights of pay channels like Zee TV, BBC, Raj TV, *etc*. However, the rights for other popular channels owned by Sun, Star and Sony TV were not available to the Company as the broadcasters refused to part with the signals.

We observed (April 2010) that the Company purchased high cost digital heads considering their clarity and superiority over the conventional analog system. But such clarity of the digital signals could be received by cable especially in Conditional Access System (CAS) areas only through High Definition Set Top Boxes (HDSTB), the cost of which was estimated at ₹ 15,000 per HDSTB which would have factored in additional investment of ₹142.50 crore• towards the investment on HDSTB. However, the Company included an investment of ₹13.75 crore only in the project proposals and later on the Company recorded (March 2009) that it would be impossible to break even considering the investment on HDSTB.

Revenue earnings

After installation of the digital heads, the Company started with a baby step and procured a consumer base of only 34,350 in August 2008 which expanded to 55,705 in October 2010. But it could not expand further due to non-availability of popular channels. The Company, which anticipated a revenue of ₹241.21 crore in three years of operation up to 2010-11, actually earned only ₹2.48 crore from August 2008 to October 2010. Even out of this small amount, the Company could not realise ₹95.50 lakh from LCOs till date (November 2010). To earn this revenue, the Company incurred ₹10.59 crore being the payments made to pay channels (₹2.71 crore), lease charges for fibre cables (₹2.16 crore) and establishment, rent and other incidentals (₹5.72 crore). Thus, the overall operations of the Company resulted in a cash loss of ₹8.11 crore. Due to plummeting consumer patronage, the Company was forced to not only surrender fibre cable connectivity for the route length of 680 KMs but also stopped (August 2009) procuring pay channels.

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* The point from where audio/video signals are transmitted to LCOs.

Σ ₹25,000 per KM for 821 KMs.

• Calculated at the rate of ₹15,000 per HDSTB for the estimated consumer base of 95,000 cable homes in CAS areas during the first year of operation.

Conclusion

The Company ventured into a highly competitive business and commenced its commercial operations immediately after the clearance of the proposal by the project investment committee in the same month. However, in the absence of proper strategy to procure telecasting rights of popular channels and increasing the consumer base and firm agreements with LCOs for assured patronage resulted in a cash loss of ₹8.11 crore, besides unfruitful creation of infrastructure worth ₹28.28 crore.

The Government stated (August 2010) that its aim of formation of this Company was not to augment the revenue but to provide high quality television signals at reasonable cost to public. The fact, however, remained that even this objective was not achieved as the Company did not make headway in enlarging the customer base as envisaged till date (November 2010) resulting in continued poor performance.

Electronics Corporation of Tamil Nadu Limited

4.4 Idle investment

The Company purchased land in two phases in quick succession without conducting any feasibility study and ascertaining the marketability of the land which resulted in idle investment of ₹20.00 crore.

The Company which is engaged in development of software applications also took up (August 2006) promotion of Information Technology (IT) parks in Tier-I and II cities such as Coimbatore, Madurai, Tirunelveli, *etc*., as per the directives of the Government of Tamil Nadu. Based on spot assessment of the land available at the Industrial Growth Centre, Gangaikondan in Tirunelveli district belonging to State Industries Promotion Corporation of Tamil Nadu Limited (SIPCOT), the Company acquired 500 acres of land in two phases[♦] on 99 years lease basis. The plot cost of ₹3 crore was paid by the Company in April 2007. Similarly, the plot cost of ₹20 crore for the land acquired in the second phase was paid in July 2008. In addition, the Company also incurred a part payment of ₹5.19 crore towards construction of an IT building complex and development for the first phase of the industrial area.

We observed (April 2010) that acquisition of 400 acres of land in the second phase was hasty as the SIPCOT, which was holding the land (1,240 acres) since 1995-97, could sell only 152.74 acres up to March 2009 due to absence of demand as it was a rocky terrain requiring blasting for commencing developmental activity. However, the Company took over the land in the first phase without any independent feasibility study on suitability of the land and also purchased the land in second phase without ensuring the saleability of the land of the first phase. The Company also did not obtain approval of the project investment committee for both the purchases, though it was necessary for every investment in excess of ₹2 crore by a State PSU.

♦ 100 acres in April 2007 at ₹3.00 lakh per acre and 400 acres in July 2007 at ₹5.00 lakh per acre.

The Company made provisional allotment of 27 acres of land to two entrepreneurs (May 2010) from the first phase of land but the actual sale for this allotment has not been completed till date (November 2010). Further, the entire land taken over in 2007 also remained unsold till date (November 2010).

Thus, purchase of land in the second phase without ascertaining the marketability of the land resulted in idle investment of ₹20.00 crore.

The matter was reported to the Company/Government in May 2010; their replies were awaited (November 2010).

State Industries Promotion Corporation of Tamil Nadu Limited

4.5 Loss of revenue

The Company lost revenue of ₹8.32 crore due to charging the pre-revised price to a land allottee even though it allotted the land after revision of the land price.

M/s Allison Transmission India (Private) Limited (Allison) applied (May 2008) for allotment of around 30 acres of industrial land at the Company's Industrial Growth Centre at Oragadam. The Company, 'in-principle', agreed (June 2008) to allot 27.50 acres to Allison without mentioning the cost of the land.

The Board of Directors (BOD) of the Company noted (September 2008) the increasing demand for the industrial plots in and around Chennai and the additional liability on account of enhanced compensation payable to land owners. Accordingly, the BOD decided (September 2008) to revise the land cost at Oragadam from ₹30.00 lakh per acre to ₹60.00 lakh per acre in view of the market value of the land.

The Government issued (October 2008) orders sanctioning structured package of assistance to Allison which included allotment of the required land on a 99 years' lease basis as per the usual terms of allotment and usual price and payment terms of the Company. Before the Company communicated the price of the land, Allison represented (October 2008) to the Government for retention of the pre-revised price of ₹30.00 lakh per acre. The Government endorsed (November 2008) Allison's representation to the Company for consideration and to take a decision. The BOD, however, approved (December 2008) the allotment of 27.74 acres of land at a price of ₹30 lakh per acre to Allison stating that at the time of issuing 'in-principle' allotment, the prevailing price at Oragadam growth centre was ₹30 lakh per acre. Based on the firm letter of allotment (December 2008), Allison paid ₹8.32 crore (December 2008) towards the cost of the land.

We observed (December 2009) that the decision of the Company to allot the land at pre-revised price of ₹30 lakh per acre was not justified since the Company had decided the upward revision of the land cost taking into consideration increase in the market price and various other factors prior to issue of firm allotment to Allison. Therefore, the allotment of land to Allison at the pre-revised rate of ₹30 lakh per acre was not in the financial interest of the Company.

The Government replied (July 2010) that the decision to revise the cost of the plot from ₹30 lakh to ₹60 lakh per acre was taken in September 2008 and the same was applicable to all pending applications. It added that Allison's application dated 17 May 2008 could not be treated as pending since an 'in principle' allotment was issued in June 2008 itself and the Company had omitted to mention the land price in the 'in principle' letter of allotment.

The reply was not acceptable because the revision of land prices had been in the offing since November 2007. The Company had been adopting the revised price, wherever the final allotment had not been made till the revision of the price. Therefore, the Company's decision to charge the pre-revised price after revising the cost of the plot was not a financially prudent decision. Thus, by not collecting the revised price, the Company had foregone the revenue of ₹8.32 crore.

4.6 Non-collection of service tax

Service tax of ₹70.28 lakh as per Finance Act was not collected. There is a further liability for payment of interest of ₹14.82 lakh and penalty of ₹74.27 lakh due to non-registration under service tax and non-collection of service tax.

The Company is engaged in acquisition and development of land with necessary infrastructure facilities for allotment to entrepreneurs. The infrastructure facilities at the industrial complexes include construction of roads, sewerage systems, street lights, water supply system, *etc*. The Company undertakes maintenance of the industrial complexes as per the terms of agreement with the industrial units and is entitled to recover general maintenance charges. The maintenance expenditure is initially incurred by the Company and subsequently recovered from the allottees on pro rata basis.

The Government of India (GOI) through amendment to the Finance Act (Act) under Section 65 (105) (zzg) of the Act, had brought the maintenance of immovable properties within the ambit of service tax with effect from 16 June 2005. However, the Company has not registered as a service provider of the taxable services as per Section 69 of the Act. As per Section 77 of the Act, such non-registration entailed levy of penalty of ₹200 per day during such failure continues. Thus, the Company was liable to pay penalty of ₹3.99 lakh[€] for non-registration.

€ Penalty at the rate of ₹200 per day from 16 June 2005 to November 2010.

The Company earned an income of ₹6.09 crore through the above service during the period from 2005-06 to 2009-10. As a provider of taxable service, the Company has to pay service tax to the GOI by collecting the same from its clients with effect from July 2005. Since, the Company had not collected the same from its clients; it became liable to pay service tax of ₹70.28 lakh to GOI without collection of the same from their clients. Besides, the Company was liable to pay interest of ₹14.82 lakh under Section 75 of the Act. The Company has also become liable for levy of penalty under Section 78 of the Act, which shall be equivalent to 100 *per cent* of the service tax not remitted to GOI.

The Company replied (June 2010) that the infrastructure assets including land in its industrial complexes continued to be their property and only the right of enjoyment has been given to the allottees by way of lease agreement. Since the maintenance of the assets was the Company's responsibility, the above service did not fall under the ambit of maintenance and services and hence, applicability of service tax did not arise.

The reply of the Company was not factually correct as the infrastructure assets leased out for a period of 99 years would tantamount to sale as per the opinion of Institute of Chartered Accountants of India and the maintenance and repair expenditure initially incurred by the Company is subsequently recovered from the allottees. Such recovery is treated as income of the Company and hence would attract Service Tax.

The matter was reported to the Government in May 2010; its reply was awaited (November 2010).

Perambalur Sugar Mills Limited

4.7 Avoidable expenditure

The Company did not enforce completion schedule of godown construction as per the terms of the contract, which resulted in avoidable interest/storage charges of ₹35.72 lakh.

The Company's godowns of 26,100 MT capacities within its factory premises at Perambalur were not sufficient for storage of the entire sugar during the annual crushing season (October to May). Therefore, the Company was dependent on hiring additional capacity. The Company decided (December 2006) to construct additional godown capacity of 4,500 MT and awarded (February 2007) the construction work at a cost of ₹48.67 lakh with scheduled completion by July 2007.

We noticed (September 2009) that due to slow progress of the work by the contractor even the foundation work was not completed by July 2007. We further noticed that the Company had not entered into a formal agreement with the contractor while awarding (February 2007) the work and entered into an agreement only in December 2007. The agreement stipulated that the work was to be completed within four months from the date of handing over of the site though the site was handed over to the contractor in February 2007 itself. The contractor was given a revised completion schedule up to April 2008. However, the construction was completed in June 2009 at a cost of ₹48.24 lakh. The reason for delay in construction was lack of monitoring by the Company. Thus due to delay in construction, between August 2007 and June 2009, the

Company, which was having huge accumulated losses, engaged a godown at Tiruchirappali, belonging to the Central Warehousing Corporation at a cost of ₹25.59 lakh. Since the Company had incurred the cost of construction out of overdraft facilities, the delay in construction also resulted in avoidable interest of ₹10.13 lakh♦. Thus, the Company had incurred an overall avoidable expenditure of ₹35.72 lakh.

The Government replied (August 2010) that its efforts to engage a civil engineer to supervise the godown construction did not materialise and for the delay in construction, a sum of ₹2.43 lakh had been recovered as per the provisions of the agreement. The fact remained that the delay in construction of a much needed facility and poor monitoring by the Company had resulted in avoidable expenditure of ₹35.72 lakh.

Tamil Nadu State Construction Corporation Limited

4.8 Delay in finalisation of accounts

The Company has delayed the finalisation of accounts from the year 2002-03 due to non-availability of experienced staff. Consequently, utilisation of the advance of ₹5.25 crore given by the Government could not be vouchsafed in audit.

Section 210 of the Companies Act, 1956 read with Sections 166 and 216 casts the duty on the Board of Directors of the Company to place the accounts of the Company along with the auditor's report including supplementary comments of the CAG in the Annual General Meeting of the share holders within six months of the close of the financial year. As per Section 210 (5), if any person, being the Director of a Company, fails to take all reasonable steps to comply with the provisions of Section 210, he shall be punishable with imprisonment for a term, which may extend to six months or with fine which may extend to ₹10,000 or both. Similar provision exists under Section 210(6) in respect of a person, who is not a Director but is charged with the duty of ensuring compliance with Section 210.

In spite of above provisions in the Companies Act, the Company has not been finalising its accounts in time and there were arrears in finalisation of its accounts since 2002-03 for eight years as on 30 September 2010. The Government extended ways and means advance of ₹5.25 crore between September 2002 to March 2005 for which the accounts were not finalised.

The number of staff which was at 252 in 2004 was reduced to 13 in May 2010. The reason for drastic reduction of staff strength was the inability of the Company to pay their salary due to financial crunch. Consequently, 80 employees of the Company opted (October 2004) for Voluntary Retirement Scheme (VRS) and another 80 employees were sent to other Government organisations/Departments. Therefore, there was absence of skilled employees for finalisation of accounts, which resulted in accumulation of arrears in finalisation of accounts.

♦ At 10.5 *per cent* for two years from July 2007 to June 2009 on ₹48.24 lakh.

In the absence of accounts and subsequent audit, it cannot be ensured that the investments and expenditure incurred have been properly accounted for and the purpose of the investments has been achieved. Thus, the Government's investment in the Company remains outside the scrutiny of the State Legislature. Further, the delay in finalisation of accounts is fraught with the risk of fraud and leakage of public money remaining undetected, apart from violation of the provisions of the Companies Act.

The Government admitted (July 2010) that the delay was due to non-availability of staff and it assured to clear the backlog in a time bound manner.

It is recommended that the Government and the Company management may:

- consider outsourcing the work of preparation of accounts to clear the arrears and
- make a time-bound programme to clear the arrears and monitor it on continuous basis.

Statutory Corporation

Tamil Nadu Electricity Board

4.9 Short collection of Electricity Tax

Computation of Electricity Tax after deducting night hour rebate and Power Factor incentive by wrongly interpreting Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003 resulted in short collection of tax of ₹38.85 crore.

The Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003 (Act) notified (June 2003) by the State Government provided for payment of Electricity Tax (Tax) at five *per cent* of the net charge° of the electricity sold during the previous month.

In the meantime, Tamil Nadu Electricity Regulatory Commission introduced (16 March 2003) incentives in the form of a rebate, for every increase of 0.01 in Power Factor (PF) exceeding the PF of 0.95, at 0.5 *per cent* of the current consumption charges. The Commission also allowed reduction of 5 *per cent* on the energy charges for the consumption during 22.00 hours to 05.00 hours by the High Tension industrial services.

Even though the Board initially calculated (June 2003) tax on energy consumption without both the rebate for night hour consumption and the PF incentive for levy of tax, it *suo motu* changed the method of computation of tax from July 2003 onwards and levied the same on the consumption charges after allowing both the rebates based on representations from consumers.

Subsequently, it sought (September 2003 and December 2003) clarifications from the Chief Electrical Inspector to Government (CEIG) as to whether the tax could be levied prior to deduction of incentives or otherwise. The Board was directed (December 2003) to address the Government for the required clarification.

However, the Board continued to levy tax after deduction of both the night hour consumption rebate and the PF incentive and issued (January 2004) a circular intimating the change in the method of computation of tax. The Board addressed (September 2007) the Government for necessary clarification as per the opinion of CEIG. The Government clarified (December 2009) that tax has to be calculated before deduction of rebate for PF. Based on the above, the Board issued (July 2010) orders for collection of tax before deduction of the rebates.

As such, failure of the Board to take timely action to obtain clarification by referring the issue to the Government and their unilateral action to levy tax after

° The net charge is the balance amount remaining after deduction of prompt payment rebate, quantum of fuel surcharge or other charges comprising of demand charge and power factor surcharge from the gross amount of the bill.

allowing the rebates has resulted in short collection of tax amounting to ₹38.85 crore for the period from 2003-04 to 2009-10.

The Board replied (April 2008) that as per provisions of the Act, levy of tax was only for the realisable amount and clarifications had been sought (September 2007) from the Government as opined by the CEIG.

The reply was not convincing because the provisions of the Act for collection of tax required proper interpretation at the Government level. But the Board delayed getting the required clarification from January 2004 to September 2007 resulting in short collection of Tax.

The matter was reported to the Government in September 2010; its reply was awaited (November 2010).

4.10 Avoidable extra expenditure

The Board failed to analyse the capabilities of the lowest tenderer resulting in avoidable extra expenditure of ₹7.07 crore.

The Board floated (May 2005) a tender for purchase of twelve Auto Transformers (AT) of 100 MVA, 230/110/11 KV capacity. As per the tender requirements, the tenderer should be a manufacturer of AT and should have supplied AT of similar/higher capacity to any of the State Electricity Boards (SEBs)/Power Utilities/Generating companies. The AT should have been in successful operation for a minimum of two years. Any tenderer who did not satisfy the above conditions would be treated as a 'new entrant' and the Board reserved the right to place orders up to 10 *per cent* of the tendered quantity, if he happened to be the lowest tenderer.

The technical and price bids were opened in July and September 2005 respectively. Transformers and Rectifiers (India) Limited, Ahmedabad (T&R), who offered to supply all the 12 ATs at an all inclusive price of ₹3.80 crore per AT was the lowest tenderer (L-1). The Board, however, decided to treat T&R as a 'new entrant' since they had not supplied AT of that specification earlier. Accordingly, the Board placed (November/December 2005) orders for only five ATs on T&R and two♦ other 'new entrant' firms. The Board also decided to retender the balance quantity.

In a fresh tender floated in December 2005 for purchase of 12 ATs with similar specifications as that of May 2005, T&R was again the lowest tenderer at an all inclusive price of ₹4.81 crore per AT (excluding erection charges).

The Board, which had classified T&R as a 'new entrant' in July 2005, treated them as a regular supplier against this tender in view of the earlier supply order of November 2005. The Board placed (August 2006) 60 *per cent* of the tendered quantity (seven ATs) on T&R and placed orders for balance five ATs on L-2 at the unit price of ₹5.05 crore per AT. The ATs were supplied between April 2007 and January 2008.

We noticed (January 2010) that the Board erred in evaluating the capabilities of lowest tenderer. Prior to May 2005, T&R had already manufactured and

♦ Indotec Transformers Limited and Kanohar.

supplied (April 2002) two ATs[♣] to Gujarat SEB and received (March 2005) orders for two ATs[♦] and six ATs [€] from Power Grid Corporation of India. Thus, T&R, who was to be classified as a regular manufacturer as per the tender specifications in both the tenders was treated as 'new entrant' in September 2005. Had the Board classified T&R as a regular supplier in September 2005 itself and purchased seven ATs at an all inclusive price of ₹3.80 crore per AT instead of purchasing them at a higher cost of ₹4.81 crore (all inclusive price) per AT from the same supplier, it could have avoided the extra expenditure of ₹7.07 crore.

The matter was reported to the Government/Board in April 2010. Their replies were awaited (November 2010).

4.11 Loss of revenue due to delay in extending additional load

The Board took 60 to 284 days over and above the prescribed time for effecting new service connections and supply of additional load resulting in loss of revenue of ₹4.73 crore.

Section 43(1) of the Electricity Act, 2003, read with Regulation 4 of Tamil Nadu Electricity Distribution Standards of Performance Regulation, 2004 (Regulations) issued (September 2004) by the Tamil Nadu Electricity Regulatory Commission (TNERC) stipulate that the Board shall provide High Tension (HT) and Extra High Tension (EHT) service connection to a consumer within 150 days of receipt of application wherever such service connection involves extension and improvement to the Board's facilities. In case of extension of additional load without involving any extension or improvement work, the same was to be effected within 30 days. To adhere to the time schedule given by the TNERC, the Board had also issued (May 2005) a flow chart stipulating a time schedule for activities involved in the service connection.

We noticed that the Board did not adhere to the time schedule while giving new service connections/extension of additional loads in respect of three HT consumers as detailed below:

Details of events	Name of the Consumer			
	BYD Electronics India Private Limited (10,500 KVA)	Hyundai Motor India Limited (7,000KVA)	Hyundai Motor India Limited (5,000KVA)	Jet Associates (10,500 KVA)
Date of submission of application	25.01.2008	03.04.2007	06.06.2008	07.11.2007
Date of registration of application	03.03.2008	24.05.2007	08.07.2008	23.02.2008
Date of sanction	02.09.2008	26.06.2007	27.09.2008	21.05.2008

♣ 100 MVA 220/60 KV capacity.
♦ 100 MVA/220/132 KV capacity.
€ 220/3/132/3KV capacity.

Details of events	Name of the Consumer			
	BYD Electronics India Private Limited (10,500 KVA)	**Hyundai Motor India Limited (7,000KVA)**	**Hyundai Motor India Limited (5,000KVA)**	**Jet Associates (10,500 KVA)**
Date of supply	21.7.2009	30.06.2007	17.10.2008	15.06.2009
Total time taken	548 days	90 days	137 days	559 days
Total time allowed	150 days	30 days	30 days	150 days
Excess time taken	398 days	60 days	107 days	409 days
Unavoidable excess time	114 days	---	---	204 days
Avoidable excess time	284 days	60 days	107 days	205 days

The Board took excess time for extension of supply in all the three cases. Our analysis of the controllable factors attributable to the delay is given below:

Jet Associates

The Board took 113 days for taking up line extension, from the date of registration mainly on account of delay in preparing the feasibility report and obtaining sanction for which the time allowed was only 23 days as per TNERC's regulations. As against the time limit of 127 days for carrying out line extension work, the Board took 353 days including 101 days for solving a dispute over the land required for carrying out the line extension works. A delay of 60 days was attributable to processing the tender for award of deposit works and another 65 days in procuring current transformer and execution of work for which there were no valid reasons on record. This resulted in Board foregoing revenue in the form of Maximum Demand Charges amounting to ₹1.93 crore.

BYD Electronics India Private Limited

As against the time limit of one day for registration of application, the Board took 38 days. It took another 75 days for preparation of feasibility report and sanction of the estimate for which the time allowed was only 15 days. In addition, the Board took 308 days for carrying out the line extension work and affecting the supply against the time limit of 127 days. The extra time was attributable to absence of control over procurement and delay in execution of the line extension work. Consequently, the Board had foregone revenue in the form of maximum demand charges of ₹1.94 crore.

Hyundai Motor Limited

There was a total delay of 60 to 102 days in effecting the additional loads of 7,000 KVA and 5,000 KVA respectively, as brought out in the table. These delays at every stage were purely procedural delays as no line extension work was involved. Consequently, the Board had incurred an avoidable revenue loss of ₹86 lakh being the maximum demand charges payable by the consumer.

Thus, the Board has forgone overall revenue loss of ₹4.73 crore due to non-adhering to time schedule in effecting the new/extending service connections.

The matter was reported to the Board/Government in May 2010; their replies were awaited (November 2010).

4.12 Loss due to non-implementation of tariff

Failure/delay in imposing tariff provisions for levy of higher tariff charges for electricity consumption by the commercial establishments within software parks resulted in non-recovery of ₹2.63 crore.

As per the tariff orders prescribed by the Tamil Nadu Electricity Regulatory Commission (TNERC) with effect from 16 June 2003, software industries are classifiable under High Tension Industrial Tariff (HT-I)*. TNERC also clarified (June 2003) that any HT-I consumer extending electricity supply to other consumers within their premises for any commercial purpose has to install a separate meter at these commercial establishments. Such arrangement would enable the Board to bill the commercial consumption under Low Tension Commercial Tariff∝.

We noticed (April 2010) that the Board had extended HT service connections to 97 IT industries/software parks throughout the State by March 2009. Many of these software parks had commercial establishments like catering services, ATM counters, bank branches, departmental stores, *etc*., within their premises. The Board did not insist upon installation of separate meters to assess their electricity consumption and bill them under the LT Commercial Tariff. This failure resulted in loss of revenue of ₹2.63 crore as detailed below:

(1) Tidel Park Limited, Chennai (TPL) had a HT service connection with a sanctioned demand of 9,200 KVA since June 2000. The Board (September 2006) found that TPL had leased out space to commercial establishments and directed (October 2006) TPL to install separate LT meters for these commercial establishments. Even after obtaining the details of connected load of 518 KW in April 2007 itself, the Board delayed raising demand under LT Commercial Tariff up to February 2008. When Board raised a consolidated demand for ₹2.13 crore for the period from April 2003 to July 2007, TPL, however, refused (March 2008) to pay the tariff arrears contending that the same were not recoverable from its former clients, who had already vacated the premises. Consequently, the amount remains unsettled till date (November 2010).

This demand was also in direct contravention of TNERC orders, which had already imposed (June 2003) an embargo for recovery of any arrears of over two years unless the arrears was shown recoverable continuously from the month in which it became first due. Accordingly, out of the above claim of

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* Under HT Tariff-I, the current consumption charges per unit of power is ₹3.50 in addition to payment of demand charges for higher of 90 *per cent* of sanctioned demand or actual demand.

∝ The rate per unit under Low Tension Commercial Tariff is ₹5.30 per unit for first 100 units and thereafter ₹5.80 per unit.

₹2.13 crore, the arrears of ₹1.50 crore pertaining to April 2003 to February 2006 had already become time barred by the time the Board raised the demand. However, TPL had not even settled the balance recoverable amount of ₹62.88 lakh till date (November 2010). Thus, the delay in claiming the arrears even after detection of unauthorised commercial service connection rendered ₹1.50 crore as time barred and irrecoverable.

(2) During inspection, the Board detected (December 2009) that four such IT companies of Chennai had permitted commercial enterprises with a connected load of 307 KW to run their business inside their premises. Accordingly, the Board worked out the extra levy of ₹1.13 crore[€] on unauthorised usage of electricity for commercial purposes but could not recover the amount as these companies refused to pay the amount. The Government requested (December 2009) the Board to reconsider the issue. Thereafter, the Board decided (March 2010) to bill these facilities under the category of HT tariff on the ground that they are predominantly for the use of the employees of the IT companies.

We observed (April 2010) that the applicability of LT commercial tariff to these commercial enterprises emerged from the TNERC's tariff regulations and the Board had no authority to allow extra concessions to the IT consumers on its own. Thus, by violating the tariff regulations of TNERC, the Board passed on an unintended benefit of ₹1.13 crore to these IT companies.

Thus, the Board's failure to assess the current consumption of commercial establishments regularly by installing meters coupled with belated action for recovering the arrears and unwarranted concessions even after noticing the violations led to loss of revenue of ₹2.63 crore.

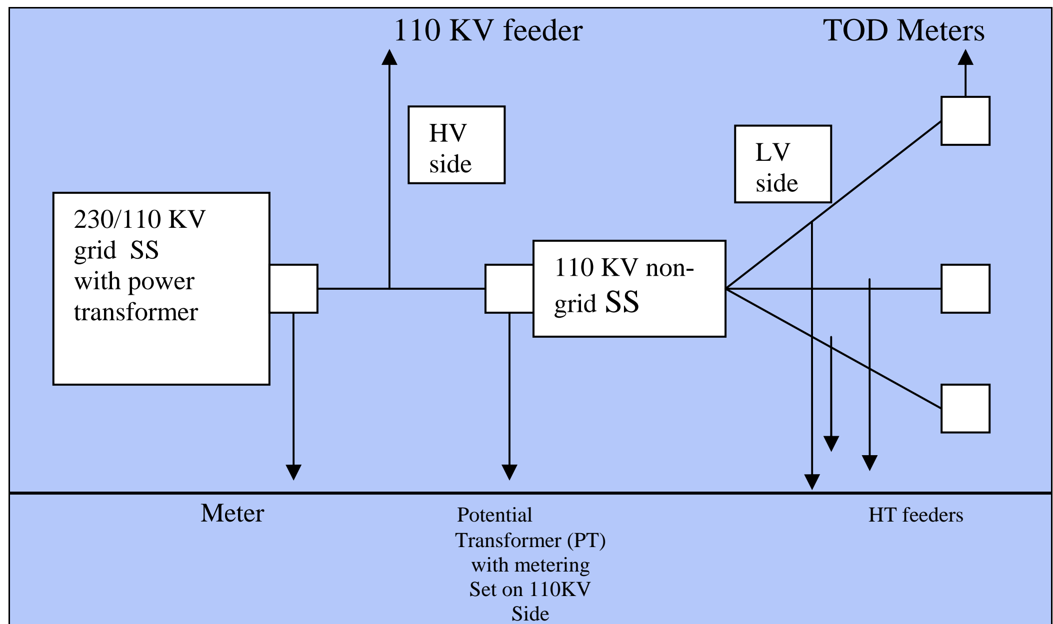
The matter was reported to the Government/Board in April 2010. Their replies were awaited (November 2010).

4.13 Unwarranted installation of potential transformers

Disregarding its own decisions, the Board installed unwarranted 252 potential transformers worth ₹2.30 crore in non-grid sub-stations.

The Tamil Nadu Electricity Board (TNEB) has established two broad categories of sub-station (SS) *viz*., grid SS and non-grid SS for transmission of power. In Non- Grid SS, the standard arrangement is to provide meters on all out going HT feeders for assessing line losses. In addition to the above arrangement, the Board had been using potential transformers (PT) along with meters in 110 KV non-grid SS, which enabled measurement of power on the HV side whenever the power was received at a voltage level higher than the handling capacity of the power transformers. A flow chart of metering arrangements at grid and non-grid SS is given below:

€ Calculated by the Board for 12 months prior to the date of detection (December 2009) as per Electricity Act, 2003.



The Transmission and Planning Wings of the Board observed (June 2001) that installation of PT had a limited role of determining the power transformer losses and was superfluous as the losses were specified and guaranteed by the suppliers of power transformers themselves. The Board further observed that metering of 110 KV feeders of 230/110 KV SS also facilitated determination of transmission loss including transformer loss, which was the difference between the incoming energy at 110 KV feeders and the sum of all outgoing HT feeders. Based on the above proposal, the Chairman of the Board decided (August 2001) to dispense with PTs in non-grid SS with immediate effect.

We noticed (May 2008) that the Planning Wing of the Board was oblivious of the Chairman's directions and continued to issue sanction orders for installation of PTs in non-grid 110 KV SS across the State. The data furnished by all the six General Construction Circles (GCC) revealed that during the period from September 2002 to October 2008, 252 PTs were installed in 83 non-grid 110 KV SS resulting in an avoidable expenditure of ₹2.30 crore. However, GCC, Madurai had not installed PTs in 40 out of 44 non-grid SS during the above period, which indicated that installation of PTs in non-grid SS was unwarranted. Consequent on pointing out the non-compliance of the Chairman's directions by Audit, the Chief Engineer (Transmission) issued (June 2009) directions to the Distribution Circles to release the PTs so erected and hand them over to the GCC's stores.

This failure of the Board to ensure strict implementation of its decision not to install PTs in non-grid SS resulted in unwarranted investment of ₹2.30 crore.

The matter was reported to the Government/Board in April 2010. Their replies were awaited (November 2010).

4.14 Failure to deduct income tax at source

The Board failed to deduct income tax at source from the payments made towards infrastructure works for wind energy evacuation. Consequently, the Board was liable to pay ₹2.07 crore towards income tax and interest.

The Board, since July 2003, had been awarding to the Wind Energy Developers (WED) execution of infrastructure works such as dedicated wind farm sub stations (SS), erection of transformers within SS, laying of high tension lines *etc*. The Board authorised the WEDs to execute the works initially at their cost subject to reimbursement through the infrastructure development charges payable by them to the Board. On successful completion/commissioning of the works by the developers, the Board capitalised these as its assets. Thus, the above arrangement between the Board and the wind energy developers constitutes a composite works contract.

Under section 194 (C) (1) of the Income tax Act, 1961 (Act) any person responsible for paying any sum to the contractor for carrying out any work in pursuance of the contract between them shall deduct two *per cent* of such sum as income tax at source (TDS). Section 201 (1A) of the Act further provides for levy of interest at one *per cent* per month or part thereof from the date on which the tax was deductible till the date of actual payment.

We noticed (February 2010) that between December 2003 and March 2009 the wind energy developers had executed 47 works in Tirunelveli and Udumalpet wind energy distribution circles and the cost of the work portion was ₹130.78 crore. Out of these works, the Board had so far (December 2009) reimbursed ₹79.32 crore in respect of 34 works without deducting TDS amounting to ₹1.59 crore, thereby violating the provisions of IT Act. Consequently, the Board was liable to pay income tax of ₹1.59 crore and an interest of ₹48.50 lakh under section 201 (1A) of the Act, for not collecting TDS. This failure of the Board to collect TDS from the windmill developers had resulted in unwarranted tax/interest liability of ₹2.07 crore

The Board in their initial reply (August 2010) has stated that the notices had been issued to respective companies for recovery of TDS.

The matter was reported to the Government/Board in April 2010. Their replies were awaited (November 2010).

4.15 Unintended benefit to an independent power producer

The Board did not collect the charges for the excess over the sanctioned demand as per tariff regulations and incorrectly refunded the penalty for low power factor, thereby extending an unintended benefit of ₹1.59 crore to a supplier of power.

The tariff schedule for High Tension Service Connection (HTSC) comprises Current Consumption (CC) charges and maximum demand (MD) charges. The MD charges for any month would be levied on the demand recorded in a month or 90 *per cent* of the sanctioned demand, whichever was higher. As per the Tamil Nadu Electricity Supply Code of September 2004, whenever the recorded demand of HTSC exceeded the sanctioned demand, the excess demand shall be charged at double the normal rate of demand charges. The code also provided for levy of penalty for non-achievement of 90 *per cent* of the power factor of the load.

The Board entered (September 2003) into a Power Purchase Agreement (PPA) with ABAN Power Company Limited (ABAN), Chennai for purchase of power at pre-determined tariff rates obtained through competitive bidding. As per the PPA, the Board was to provide necessary power required for commissioning of the project and such power was to be billed under HT tariff-III (commercial establishment). Further, on ABAN's request (December 2004), the Board effected an HTSC on 31 December 2004 for a sanctioned load of 2,000 KVA. ABAN availed the power up to 11 August 2005. For this period, the Board collected ₹77.58 lakh as MD charges and ₹77.33 lakh as penalty for low power factor (LPF).

We noticed (January 2010) that the recorded demand of ABAN was always higher than the sanctioned demand ranging between 2,360 KVA to 5,160 KVA during the above period (except in June 2005). Though ABAN was liable to pay double the normal rate for the excess demand/billable demand amounting to ₹81.60 lakh, the Board did not levy the appropriate charges so far (November 2010).

In respect of LPF, though the Board collected penalty of ₹77.33 lakh along with the monthly bills but refunded (January 2006) the same stating that such penalty would ultimately result in an additional burden to itself as the tariff payable to ABAN was based on the capital cost up to the date of commercial operations. The contention of the Board was not correct as the PPA with ABAN provided for payment of pre-determined tariff rates for purchase of power (levelised tariff), which was not related to the actual capital cost.

Hence, the Board should have levied both the penalty for LPF and the appropriate demand charges for excess over the sanctioned demand as per the HT tariff. Further in respect of another Independent Power Producer, *viz.*, Arkay Energy Limited, Ramnad district, the Board had collected penalty for LPF as per the tariff rules.

The Government replied (May 2010) that based on the audit observation, the Board had decided to recover the LPF charges and shortfall in MD charges. It further stated that the same could not be recovered because ABAN had approached (April 2010) the High Court, Chennai against the recovery.

Thus, non-adherence to the tariff rules while collecting the tariff charges and incorrect refund of LPF penalty resulted in unintended benefit of ₹1.59 crore to an IPP.

4.16 Avoidable loss of interest

Failure to demand documentary evidence of monthly claims of independent power producer as per power purchase agreement resulted in overpayments and consequential loss of interest.

The Board had been purchasing power from PPN Power Generating Company Limited, Quaid-e-Mileth district (PPN) an Independent Power Producer (IPP) since April 2001. As per the Power Purchase Agreement (PPA) entered into (January 1997) with PPN, the Board had to pay fixed capacity charges, variable fuel cost and incentive charges accrued in the previous months as stated in the invoice. The Board, however, was entitled to have access to all the relevant information/records of PPN to confirm the accuracy of the invoices before making payments based on invoice. In case the Board had chosen to treat any claim as 'disputed claim' due to non-production of documentary evidence for such claims *etc*., the same should be recorded as such to enable refund of excess claims, if any, along with interest at the rates of cash credit interest charged by the State Bank of India plus 0.5 *per cent*. In addition to the above, an annual invoice indicating the sum receivable for the year *vis-a-vis* the actual monthly payments received was to be furnished to the Board by PPN.

We noticed (July 2009) that though the Board had been making payments on monthly bills since 2001-02, it neither demanded documentary evidence for the monthly claims nor the annual invoices after close of every financial year. PPN submitted its annual invoices for the years 2001-02 to 2006-07, for the first time only in July 2007. A scrutiny of annual invoices submitted by PPN and the payments made by the Board against the monthly invoices revealed that the Board had admitted ₹4.97 crore towards other finance charges (OFC) during 2001-02 to 2006-07 against ₹2.41 crore actually admissible to PPN. The overpayment of OFC, which was an element of debt repayment could have been avoided had the Board called for documentary evidence for such payments. However, the Board neither called for proof of actual expenditure nor treated the claim for OFC as "disputed" as per the terms of the PPA. As a result, the Board could recover the excess payment of OFC charges amounting to ₹2.56 crore in the forthcoming bills of PPN, but could not claim interest of ₹1.07 crore on the excess OFC of ₹2.56 crore.

Thus, Board's failure to demand documentary evidence for monthly claims as per the terms of agreement resulted in loss of interest of ₹1.07 crore.

We recommend that the Board should obtain the documentary evidence for the payments made from all the power suppliers to ensure that payments are made as per the terms of the contract.

The matter was reported to the Government/Board in April 2010. Their replies were awaited (November 2010).

General

4.17 Follow-up action on Audit Reports

Explanatory notes outstanding

4.17.1 The Audit Reports of the CAG represents the culmination of the process of scrutiny starting with initial inspection of accounts and records maintained in the various Government companies and Statutory corporations. It is, therefore, necessary that they elicit appropriate and timely response from the Executive. Finance Department, Government of Tamil Nadu had issued instructions (January 1991) to all Administrative Departments to submit explanatory notes indicating a corrective/remedial action taken or proposed to be taken on the paragraphs and reviews included in the Audit Reports within two months of their presentation to the Legislature, without waiting for any notice or call from the Committee on Public Undertakings (COPU).

The Audit Reports for the years 1999-2000, 2000-01, 2001-02, 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08 and 2008-09 were presented to the State Legislature in September 2001, May 2002, May 2003, July 2004, September 2005, August 2006, May 2007, May 2008, July 2009 and May 2010 respectively. Ten out of 21 departments, which were commented upon, had not submitted explanatory notes on 39 out of 133 paragraphs/reviews, as of 30 November 2010, as indicated below:

Year of Audit Report (Commercial)	Total number of paragraphs/review in the Audit Report	Number of paragraphs/reviews for which explanatory notes were not received♥
1999-2000	28	1
2000-01	25	1
2001-02	32	1
2007-08	24	12
2008-09	24	24
TOTAL	**133**	**39**

Department-wise analysis is given in the **Annexure-22**. The Energy Department is responsible for non-submission of large number of explanatory notes.

♥ Paras/reviews for which no explanatory notes were received but discussed by COPU are excluded.

Compliance with the Reports of Committee on Public Undertakings (COPU)

4.17.2 The action taken notes to the paragraphs included in the Report of the COPU are to be furnished by the concerned departments within six weeks from the date of presentation of these reports to the State Legislature. Replies to 50 paragraphs pertaining to 15 Reports of COPU presented to the State Legislature between January 2003 and May 2010 had not been received as of 30 November 2010 as indicated below:

Year of COPU Report	Total number of Reports involved	Number of paragraphs in respect of which replies were not received
2002-03	5	5
2003-04	3	5
2004-05	2	3
2006-07	2	5
2009-10	3	32
TOTAL	**15**	**50**

Response to inspection reports, draft paragraphs and reviews

4.17.3 Audit observations noticed during audit and not settled on the spot are communicated to the heads of the Public Sector Undertakings (PSUs) and departments of the State Government through inspection reports. The heads of PSUs are required to furnish replies to the inspection reports through the respective heads of departments within a period of six weeks. Inspection reports issued up to March 2010 pertaining to 55 PSUs disclosed that 2,658 paragraphs relating to 675 inspection reports remained outstanding at the end of September 2010; of these, 62 inspection reports containing 193 paragraphs had not been replied to for more than two years. Department-wise break-up of inspection reports and audit observations outstanding as on 30 September 2010 are given in **Annexure-23.**

Similarly, draft paragraphs and reviews on the working of PSUs are forwarded to the Principal Secretary/Secretary of the administrative department concerned demi-officially seeking confirmation of facts and figures and their comments thereon within a period of six weeks. It was, however, observed that 11 draft paragraphs and two reviews forwarded to the various departments during the period from April to December 2010, as detailed in **Annexure-24**, had not been replied so far (December 2010).

It is recommended that the Government should ensure that (a) procedure exists for action against the officials who fail to send replies to inspection reports/draft paragraphs/reviews/ATNs on the recommendations of COPU as per the prescribed time schedule, (b) action to recover loss/outstanding advances/overpayments is taken within prescribed time and (c) the system of responding to audit observations is revamped.

Chennai **(SUBHASHINI SRINIVASAN)**
The **Principal Accountant General**
(Commercial and Receipt Audit),
Tamil Nadu

Countersigned

New Delhi **(VINOD RAI)**
The **Comptroller and Auditor General of India**